

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

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H.P. 1530

House of Representatives, January 15, 1992

Reported by Representative CHONKO for the Joint Standing Committee on Appropriations and Financial Affairs pursuant to Joint Order H.P. 1508 and printed under Joint Rule 2.

A handwritten signature in cursive script that reads "Ed Pert".

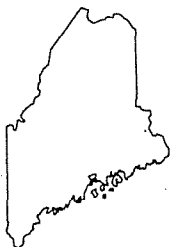
EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-TWO

**An Act to Eliminate or Modify Certain Environmental Licensing and
Permitting Requirements of the Department of Environmental Protection.**

(EMERGENCY)



Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the modification or exemption of certain environmental licensing and permitting requirements will help the Department of Environmental Protection to realize savings to meet budget reductions; and

Whereas, greater savings can be realized the sooner these exemptions are implemented; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 38 MRSA §352, sub-§5-A, in that part designated "TABLE I" in that part relating to "TITLE 38, SECTION 413," the first line, as amended by PL 1991, c. 591, Pt. U, §1, is repealed and the following enacted in its place:

413, Certification of national pollutant discharge elimination system permits in accordance with the Federal Water Pollution Control Act, 33 United States Code, Sections 1341 to 1345, as amended, or waste discharge licenses

Sec. 2. 38 MRSA §413, sub-§2-G is enacted to read:

2-G. Exemption; national pollutant discharge elimination system permit. A person does not violate this section if that person has been issued a national pollutant discharge elimination system permit by the federal Environmental Protection Agency for discharge. Waste discharge licenses issued prior to the effective date of this subsection remain in effect until reissuance of a national pollutant discharge elimination system permit.

Sec. 3. 38 MRSA §414, sub-§5, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §29, is further amended to read:

5. Unlawful to violate license. After the issuance of a license or certification of a national pollutant discharge

2 elimination system permit, in accordance with the Federal Water
4 Pollution Control Act, 33 United States Code, Sections 1341 to
6 1345, as amended, by the department, it is unlawful to violate
8 the terms or conditions of the license or the national pollutant
10 discharge elimination system permit, whether or not such
12 violation actually lowers the quality of the receiving waters
14 below the minimum requirements of their classification.

16 **Sec. 4. 38 MRSA §480-C, sub-§1,** as affected by PL 1989, c.
18 890, Pt. A, §40 and amended by Pt. B, §70, is repealed.

20 **Sec. 5. 38 MRSA §480-C, sub-§1-A** is enacted to read:

22 **1-A. Prohibition.** A person may not perform or cause to be
24 performed:

26 A. Any construction of a new sea wall or expansion of an
28 existing sea wall within a coastal sand dune except as
30 provided in section 480-O;

32 B. Any construction of a new permanent dock or expansion of
34 an existing permanent dock in a great pond; or

36 C. Any activity listed in subsection 2, but not included in
38 paragraph A or B, without first obtaining a permit from the
40 department or in violation of the conditions of a permit, if
42 the activity:

44 (1) Is in, on or over any protected natural resource;
46 or

48 (2) Is on land adjacent to any freshwater or coastal
50 wetland, great pond, river, stream or brook and
operates in such a manner that material or soil may be
washed into it.

Sec. 6. 38 MRSA §480-Q, sub-§11, as amended by PL 1991, c.
240, §2, is further amended to read:

11. Soil evaluation. Borings taken to evaluate soil
conditions in or adjacent to a great pond, river, stream or
brook, coastal wetland, freshwater wetland or sand dune are
exempt from the provisions of this article provided that no area
of wetland vegetation is destroyed or permanently removed; and

Sec. 7. 38 MRSA §480-Q, sub-§12, ¶E, as enacted by PL 1991, c.
240, §3, is amended to read:

E. A notice of intent to maintain, repair or reconstruct
the access way and the description of the work to be
completed are submitted to the commissioner and to the

2 municipal reviewing authority at least 20 days before the
work is performed.;

4 **Sec. 8. 38 MRSA §480-Q, sub-§§13 to 15** are enacted to read:

6 13. Fisheries and wildlife habitat projects. Projects
carried out by a public natural resource agency for the sole
8 purpose of creating or enhancing habitat for fisheries or
wildlife;

10 14. Public boat ramps. Construction of public boat ramp
12 facilities carried out by a natural resource agency; and

14 15. Piers, wharves and pilings. Construction,
reconstruction or expansion of pile-supported piers and wharves
16 and installation of pilings in coastal wetlands as long as the
following standards are met.

18 A. Structures may not be located in, on or over coastal
20 marsh.

22 B. Structures may not be located in an area containing
significant wildlife habitat as identified by the Department
24 of Inland Fisheries and Wildlife.

26 C. Piers for noncommercial, private use must have a maximum
width of 6 feet and may not extend beyond the low-water
28 line, excluding seasonal ramps and floats.

30 D. Commercial or public piers and wharves must have a
maximum width of 12 feet and must be limited to the minimum
32 length necessary to provide access to boats for which the
facilities are intended.

34 E. Structures must be set back at least 25 feet from
36 property lines, or 50 feet from other structures that are
fixed in place below the mean high tide line and not under
38 the same ownership or control, whichever is greater, unless
a letter of permission is granted by the abutting or other
40 controlling property owner.

42 F. Structures may not extend across more than 25% of any
channel at mean low water. A structure may not extend into
44 a designated federal channel.

46 G. Wood treated with creosote or pentachlorophenol may not
be used below the mean high water line.

48 H. A submerged lands lease or easement must be obtained from
50 the Department of Conservation, Bureau of Public Lands, if
applicable.

2 I. A notice of intent to construct a pier or wharf or
4 install pilings, with dimensions of the project and a
6 location map, must be submitted to the commissioner and to
 the municipal reviewing authority at least 20 days before
 the work is performed.

8 **Sec. 9. 38 MRSA §1303-C, sub-§§22-A and 27-A** are enacted to
10 read:

12 **22-A. Recycling facility handling separated refuse.**
14 "Recycling facility handling separated refuse" means a facility
16 that handles recycled solid materials that have been separated
18 from municipal solid waste prior to their receipt at the
 recycling facility and that are free from and will not produce
 putrescible or other solid wastes, liquid wastes or any special
 or hazardous wastes.

20 **27-A. Septage storage tank.** "Septage storage tank" means a
22 steel, concrete or fiberglass tank used for the containment of
24 septage above or below the ground in a manner that does not
 constitute disposal for a period of 180 days or less while the
 ground is frozen, snow-covered or water-saturated.

26 **Sec. 10. 38 MRSA §1304, sub-§11**, as affected by PL 1989, c.
 890, Pt. A, §40 and amended by Pt. B, §228, is repealed.

28 **Sec. 11. 38 MRSA §1306, sub-§1**, as affected by PL 1989, c.
30 890, Pt. A, §40 and amended by Pt. B, §232, is further amended to
 read:

32 **1. General prohibition.** It is unlawful for any person to
34 establish, construct, alter or operate any waste facility without
 a permit issued by the department. Septage storage tanks,
36 recycling facilities handling separated refuse and storage areas
 associated with scrap metal, junk or automobile salvage
 operations are exempt from the requirements of this subsection.

38 **Sec. 12. 38 MRSA §1310-S, sub-§2**, as affected by PL 1989, c.
40 890, Pt. A, §40 and amended by Pt. B, §249, is repealed.

42 **Sec. 13. 38 MRSA §2174, sub-§1**, as affected by PL 1989, c.
44 890, Pt. A, §40 and amended by Pt. B, §292, is repealed.

46 **Sec. 14. 38 MRSA §2174, sub-§3**, as affected by PL 1989, c.
48 890, Pt. A, §40 and amended by Pt. B, §292, is further amended to
 read:

50 **3. Inspection; emergency orders.** A certified local
 inspector is authorized to enter property of the agency or any

2 regional association within the inspector's jurisdiction, inspect
3 records required by the department, take samples and conduct
4 inspections in accordance with departmental rules applicable to
5 employees of the department. A certified local inspector may
6 order the operator of the facility to cease any operation or
7 activity at the facility that constitutes an immediate threat to
8 public health or safety or to the environment. The inspector
9 shall notify the commissioner and the municipal officers of the
10 host municipality within 2 hours of issuing such an order.

12 **Emergency clause.** In view of the emergency cited in the
13 preamble, this Act takes effect when approved.
14

16 STATEMENT OF FACT

18 This bill:

20 1. Terminates the following activities of the Department of
21 Environmental Protection: the submission of the annual imported
22 solid and special waste report; the holding of mandatory public
23 hearings for the solid waste disposal facilities; the licensing
24 of septage storage tanks; the licensing of recycling facilities
25 handling separated refuse; the licensing of storage areas
26 associated with scrap metal, junk or automobile salvage
27 operations; and the administration of the local landfill training
28 program;

30 2. Prohibits sea walls in coastal sand dunes and permanent
31 docks in great ponds;

32 3. Creates exemptions from permitting requirements for
33 fisheries and wildlife habitat improvement projects and boat ramp
34 construction projects; and

36 4. Exempts Maine industries and municipalities that hold
37 valid national pollution discharge elimination system permits
38 issued by the federal Environmental Protection Agency from the
39 requirement to have a Maine wastewater discharge license.
40